

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Rhett G. DePew,	:	
	:	
Plaintiff	:	Civil Action 2:12-cv-00250
	:	
v.	:	Judge Marbley
	:	
Dr. Gary Krisher,	:	Magistrate Judge Abel
	:	
Defendant	:	

Plaintiff Rhett G. DePew, a state prisoner, brings this action alleging that defendant Dr. Gary Krisher was deliberately indifferent to his safety when he refused to give plaintiff a bottom bunk restriction. This matter is before the Court on plaintiff DePew's December 13, 2012 objections (doc. 32) to Magistrate Judge Abel's December 3, 2012 Report and Recommendation (doc. 30) that defendant Krisher's October 10, 2012 motion for judgment on the pleadings (doc. 25) be granted.

Upon *de novo* review in accordance with the provisions of 28 U.S.C. §636(b)(1)(B), the Court **ADOPTS** the Report and Recommendation and **GRANTS** defendant Krisher's October 10, 2012 motion for judgment on the pleadings (doc. 25).

Plaintiff's objections set out his medical treatment and argue that he has been denied medical treatment for serious medical needs and subjected to cruel and unusual punishment by Dr. Krisher. However, the objections do not contest the Magistrate Judge's finding that because he has been transferred to a new facility and is no longer under the care of defendant Dr. Krisher, his claim for injunctive relief is MOOT. *See, e.g.,*

*Kensu v. Haigh*, 87 F.3d 172, 175 (6th Cir. 1996). Nor does he contest the Magistrate Judge's finding that a prisoner has no liberty interest in remaining at a particular prison, *Olim v. Wakinekona*, 461 U.S. 238, 245 (1983), and that his transfer to a lesser security prison appeared to be a reasonable one that is consistent with ODRC's classifications of prisoners and its designation of the prisons where prisoners of similar security levels are held. Since the complaint seeks only injunctive relief and not money damages, (March 22, 2012 Complaint, p. 6, Doc. 2, PageID 7), plaintiff's claims against defendant Krisher are MOOT.

For the reasons set out above, defendant Krisher's October 10, 2012 motion for judgment on the pleadings (doc. 25) is **GRANTED**. Defendant Dr. Gary Krisher is hereby **DISMISSED** from this lawsuit. All other defendants named in the complaint were earlier dismissed by the Court's July 16, 2012 Order (doc. 17). Accordingly, the Clerk of Court is **DIRECTED** to enter **JUDGMENT** for defendants. This action is hereby **DISMISSED**.

s/ Algenon L. Marbley  
Algenon L. Marbley  
United States District Judge